

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ASTELLAS INSTITUTE FOR
REGENERATIVE MEDICINE **and** STEM
CELL & REGENERATIVE MEDICINE
INTERNATIONAL, INC.,

Plaintiffs,

v.

IMSTEM BIOTECHNOLOGY, INC.,
XIAOFANG WANG, **and** REN-HE XU,

Defendants.

Civil Action No. 1:17-cv-12239-ADB

**DECLARATION OF LAUREN K. SHARKEY IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANTS' MOTION FOR LEAVE TO FILE AMENDED
COUNTERCLAIMS**

I, Lauren K. Sharkey, under penalty of perjury, do hereby declare as follows:

I am an attorney at Latham & Watkins LLP (“Latham & Watkins”). I am counsel of record for Plaintiffs Astellas Institute for Regenerative Medicine (“Astellas”) and Stem Cell & Regenerative Medicine International, Inc. (“SCRMI”) (collectively “Plaintiffs”) in the above-captioned action. I submit this Declaration, based on my personal knowledge, in support of Plaintiffs’ Opposition to Defendants’ Motion for Leave to File Amended Counterclaims.

1. Attached hereto as Exhibit 1 is a true and correct copy of excerpts of the June 14, 2019 deposition (part I) transcript of Xiaofang Wang, filed under seal pursuant to the Court’s Order on Plaintiffs Motion to Seal, D.I. 74.

2. Attached hereto as Exhibit 2 is a true and correct copy of excerpts of the July 29, 2019 deposition (part II) transcript of Xiaofang Wang, filed under seal pursuant to the Court's Order on Plaintiffs Motion to Seal, D.I. 74.¹

3. Attached hereto as Exhibit 3 is a true and correct copy of excerpts of the March 2018 Transcript, LU-00000003, filed under seal pursuant to the Court's Order on Plaintiffs Motion to Seal, D.I. 74.

4. Attached hereto as Exhibit 4 is a true and correct copy of a March 28, 2011 email from Erin Kimbrel to Xiaofang Wang re "data and info for grants" (IMSTEM-0002553), filed under seal pursuant to the Court's Order on Plaintiffs Motion to Seal, D.I. 74.

5. Attached hereto as Exhibit 5 is a true and correct copy of a March 29, 2014 email from Xiaofang Wang to Ren-He Xu re "collaboration" (IMSTEM-0029820), filed under seal pursuant to the Court's Order on Plaintiffs Motion to Seal, D.I. 74.

6. Attached hereto as Exhibit 6 is a true and correct copy of Exhibit 36 to the deposition of Xiaofang Wang, a July 3, 2012 email from Xiaofang Wang re "patent #1" and attachments (IMSTEM-0031515 and IMSTEM-0031516), filed under seal pursuant to the Court's Order on Plaintiffs Motion to Seal, D.I. 74.

7. Attached hereto as Exhibit 7 is a true and correct copy of Exhibit 37 to the deposition of Xiaofang Wang, a July 9, 2012 email from Xiaofang Wang to Renhe Xu, copying Michael Men re "more claims added" and attachment (IMSTEM-0027835 and IMSTEM-0027836), filed under seal pursuant to the Court's Order on Plaintiffs Motion to Seal, D.I. 74.

¹ Plaintiffs' motion to seal only included part I of Dr. Wang's deposition transcript, as part II was completed yesterday (July 29, 2019) (D.I. 73). Given the continued designation of the deposition as highly confidential, Plaintiffs file these excerpts under seal as well.

8. Attached hereto as Exhibit 8 is a true and correct copy of the publication Jong Ha Hwang et al., *Comparison of Cytokine Expression in Mesenchymal Stem Cells from Human Placenta, Cord Blood, and Bone Marrow*, 24 J. KOREAN MED. SCI. 547 (2009).

9. Attached hereto as Exhibit 9 is a true and correct copy of the publication Chae Woon Park et al., *Cytokine Secretion Profiling of Human Mesenchymal Stem Cells by Antibody Array*, 2 INT. J. STEM CELLS 59 (2009).

10. Attached hereto as Exhibit 10 is a true and correct copy of the publication Ruo-Pan Huang et al., *The Promise of Cytokine Antibody Arrays in the Drug Discovery Process*, 9 EXP. OP. THERAPEUTIC TARGETS 601 (2005).

11. Attached hereto as Exhibit 11 is a true and correct copy of the publication Betül Çelebi et al., *Irradiated mesenchymal stem cells improve the ex vivo expansion of hematopoietic progenitors by partly mimicking the bone marrow endosteal environment*, 370 J. IMMUNOLOGICAL METHODS 93 (2011) (AIRM00297371).

12. Attached hereto as Exhibit 12 is a true and correct copy of the publication Bocelli-Tyndall, Chiara, et al. *Bone marrow mesenchymal stromal cells (BM-MSCs) from healthy donors and auto-immune disease patients reduce the proliferation of autologous-and allogeneic-stimulated lymphocytes in vitro*, Rheumatology 46.3 (2007): 403-408.

13. Attached hereto as Exhibit 13 is a true and correct copy of a March 14, 2019 email from Reba Rabenstein to Timothy Shannon and others re the protective order and deposition dates.

14. Attached hereto as Exhibit 14 is a true and correct copy of a June 3, 2019 email from Lauren Sharkey to Timothy Shannon and others re Imstem Deposition Notices.

15. Attached hereto as Exhibit 15 is a true and correct copy of a July 15, 2019 email from Reba Rabenstein to Timothy Shannon, Ben Stern and Wayne Keown regarding Plaintiffs Second Set of Interrogatories and attachment.

16. Attached hereto as Exhibit 16 is a true and correct copy of a February 10, 2019 email from Timothy Shannon to Reba Rabenstein and others re a motion to modify scheduling order.

I declare under penalty of perjury under the laws of the United States that the foregoing statements are true and correct and that this declaration was executed by me this 30th day of July, 2019, in Chicago, Illinois.



Lauren K. Sharkey

CERTIFICATE OF SERVICE

I hereby certify that this document, which was filed with the Court through the CM/ECF system, will be sent electronically to all registered participants as identified on the Notice of Electronic Filing, and paper copies will be sent via first class mail on July 30, 2019 to those identified as non-registered participants.

/s/ Charles H. Sanders
Charles H. Sanders